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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR      | ATTORNEY DOCKET NO. | CONFIRMATION NO.    |
|--|-------------|---------------------------|---------------------|---------------------|
| 10/657,985   | 09/09/2003  | Satyanarayan R. Panpaliya | CM05324J            | 1291                |
| 22917  | 7590        | 06/08/2005                | EXAMINER            |                     |
| MOTOROLA, INC.<br>1303 EAST ALGONQUIN ROAD<br>IL01/3RD<br>SCHAUMBURG, IL 60196 |             |                           |                     | BURD, KEVIN MICHAEL |
|  |             | ART UNIT                  |                     | PAPER NUMBER        |
|  |             | 2631                      |                     |                     |

DATE MAILED: 06/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                           |                  |  |
|------------------------------|---------------------------|------------------|--|
| <b>Office Action Summary</b> | Application No.           | Applicant(s)     |  |
|                              | 10/657,985                | PANPALIYA ET AL. |  |
|                              | Examiner<br>Kevin M. Burd | Art Unit<br>2631 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 16 December 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 and 3-13 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1, 3-13 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

1. This office action, in response to the amendment filed 12/16/2004, is a final office action.

***Response to Arguments***

2. Applicant's arguments filed 12/16/2004 have been fully considered but they are not persuasive.
3. Applicant has amended claims 1, 4, 9, 10 and 13. However, Uddenfeldt discloses transmitting audio quality and output bit rate information in a reverse channel as stated in claims 4, 9, 10 and 13, and Uddenfeldt discloses transmitting audio quality and output bit rate information by allocating extra bits in a reverse channel as stated in claims 1 and 3. Uddenfeldt discloses, in column 3, lines 24-31, the measurement of the BER is done in the base station and if the BER is above a certain threshold, the mobile station is set to operate in a full rate mode. The reverse channel is the channel from a base station to a mobile state. Information regarding a change to the rate mode will be communicated on this channel. When changing the rate mode from half rate to full rate, additional or extra bits will be allocated. This is shown in figure 3 where the mobile station utilizes two time slots in the full rate mode (column 2, lines 46-64) opposed to the half rate mode which uses one time slot per mobile (figure 2 and column 2, line 65 – column 3, line 5). Uddenfeldt also discloses the base station sends a command to the mobile to change to a different channel in column 9, lines 27-31. This information requires extra bits than signals that do not require the channel to be changes. For these

reasons and the reasons stated in the previous office action, the rejections of these claims are maintained and stated below.

4. The rejections of claims 5-8 do not appear to be addressed in Applicants response. The rejections of these claims are maintained and stated below.

5. Regarding the rejection of claim 11, Applicant states the present invention does not require a separate frequency channel for informational messages but rather uses a reverse channel to convey the information. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the feature upon which applicant relies (i.e., the present invention not requiring a separate frequency channel for informational messages) is not recited in the rejected claim.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In addition, Chin (as well as Chung) discloses communicating information from the base station to the mobile station. This channel is a reverse channel. For this reason and the reasons stated in the previous office action, the rejection of claim 11 is maintained and stated below.

6. Regarding the rejection of claim 12, Applicant states the Chung patent uses a separate frequency channel rather than a reverse channel. Chung discloses communication is made on the uplink (reverse link) in column 1, lines 26-42. This is the reverse channel. The rejection of claim 12 is maintained and stated below.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 4-10 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Uddenfeldt et al (US 5,327,576).

Regarding claims 4-6, 9-11 and 13, Uddenfeldt discloses a communication system, which transmits radio signals, comprising a transmitting device the transmit bit rate information at time intervals to a receiver (column 3, lines 24-31). A receiver comprises a speech and channel coder (column 5, lines 19-28) and the output bit rates for the coders are derived from the bit error rate information (column 3, lines 24-31 and figure 5). The output bit rates are switched between a full rate and a half rate depending on the bit error rate.

Regarding claims 7 and 8, as shown in figure 5, the applying of new bit rates is continuous and depending on the bit error rate of the transmission, changes to the output bit rates will occur.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uddenfeldt et al (US 5,327,576) in view of Chin et al (US 6,778,556).

Regarding claims 1 and 3, Uddenfeldt discloses a communication system, which transmits radio signals, comprising a transmitting device the transmit bit rate information at time intervals to a receiver (column 3, lines 24-31). A receiver comprises a speech and channel coder (column 5, lines 19-28) and the output bit rates for the coders are derived from the bit error rate information (column 3, lines 24-31 and figure 5). The output bit rates are switched between a full rate and a half rate depending on the bit error rate. Uddenfeldt does not disclose a half duplex system for transmitting between the transmitter and receiver. Chin discloses it is well known to use half duplex transmissions in wireless communication (column 3, lines 33-54). It would have been obvious for one of ordinary skill in the art at the time of the invention to utilize the half duplex communication of Chin in the communication system of Uddenfeldt since half duplex systems maintain a low cost advantage (column 3, lines 56-59).

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chung (US 5,706,282) in view of Chin et al (US 6,778,556).

Regarding claim 11, Chung discloses a communication system transmitting commands to control the power and bit rate of the system (column 5, lines 9-20). The power commands inherently affect the bit error rate (column 5, lines 19-20). Chung does not disclose a half duplex system for transmitting between the transmitter and

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receiver. Chin discloses it is well known to use half duplex transmissions in wireless communication (column 3, lines 33-54). It would have been obvious for one of ordinary skill in the art at the time of the invention to utilize the half duplex communication of Chin in the communication system of Chung since half duplex systems maintain a low cost advantage (column 3, lines 56-59).

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Uddenfeldt et al (US 5,327,576) in view of Chung (US 5,706,282).

Regarding claim 12, Uddenfeldt discloses a communication system, which transmits radio signals, comprising a transmitting device the transmit bit rate information at time intervals to a receiver (column 3, lines 24-31). A receiver comprises a speech and channel coder (column 5, lines 19-28) and the output bit rates for the coders are derived from the bit error rate information (column 3, lines 24-31 and figure 5). The output bit rates are switched between a full rate and a half rate depending on the bit error rate. The transmitter includes an error correction coder (column 5, lines 13-16). Uddenfeldt does not disclose controlling the power output of the transmitter. Chung discloses a communication system transmitting commands to control the power of the system (column 5, lines 9-20). It would have been obvious for one of ordinary skill in the art at the time of the invention to include the power control system of Chung into the communication system of Uddenfeldt to control the channel capacity of the system (column 3, lines 4-10). Controlling the power will also reduce the affect of one user on other users in the system.

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***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin M. Burd whose telephone number is (571) 272-3008. The examiner can normally be reached on Monday - Thursday 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kevin M. Burd  
6/6/2005

**KEVIN BURD**  
**PRIMARY EXAMINER**